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Substantive session of 2005
Item 14 (g) of the annotated provisional agenda*
Proposed reform of the Secretary-General in the area of human rights

Summary of the open-ended informal consultations held by the Commission on Human Rights pursuant to Economic and Social Council decision 2005/217, prepared by the Chairperson of the sixty-first session of the Commission

Note by the Secretariat

The Secretariat has the honour to transmit to the President of the General Assembly, through the President of the Economic and Social Council, a letter from the Chairperson of the sixty-first session of the Commission on Human Rights transmitting a summary of the discussions that took place at the open-ended informal consultations of the Commission on the recommendations concerning human rights contained in the report of the Secretary-General (A/59/2005 and Add.1-3). The discussions were held on 20 June 2005 in Geneva pursuant to Council decision 2005/117 of 9 June 2005.

* E/2005/100 and Corr.1

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Summary

The present letter is presented to the General Assembly pursuant to Economic and Social Council decision 2005/117, adopted on 9 June 2005. In its decision, the Council, bearing in mind General Assembly resolutions 59/145 and 59/291 and Commission on Human Rights decision 2005/116, requested the Chairperson of the sixty-first session of the Commission to organize open-ended informal consultations of up to two days, to reflect on the recommendations on human rights contained in the report of the Secretary-General (A/59/2005 and Add.1-3), with a view to contributing to the intergovernmental deliberations on the proposed reforms of the United Nations in the General Assembly. To this end, the Council authorized the Chairperson of the Commission to prepare a summary of the consultations, to be transmitted to the President of the General Assembly through the President of the Council.

Further to this decision, the Chairperson of the sixty-first session, in consultation with the Expanded Bureau of the Commission, decided to convene informal consultations on 20 June 2005.

The present letter contains the summary of these consultations, as prepared by the Chairperson of the Commission.

Annex

Letter of the Chairperson of the sixty-first session of the Commission on Human Rights addressed to the President of the Economic and Social Council

Excellency,

I have the honour to refer to my letter dated 13 June 2005 concerning decision 2005/117, adopted by the Economic and Social Council on 9 June 2005, which requested the Chairperson of the sixty-first session of the Commission on Human Rights to organize open-ended informal consultations of up to two days, to reflect on the recommendations on human rights contained in the report of the Secretary-General and to prepare a summary of these consultations, to be transmitted to the President of the General Assembly through the President of the Council.

I am hereby attaching the summary of the informal consultations which took place yesterday in Geneva. I would kindly request that this summary be transmitted to the President of the General Assembly so that it may be circulated as an official document during the consultations on the draft outcome of the sixtieth session of the General Assembly scheduled for 21 to 23 June 2005 and the forthcoming session of the Council.

Please accept, Excellency, the assurances of my highest consideration.

(*Signed*) Makarim **Wibisono**
Chairperson of the sixty-first session of the Commission on Human Rights

Summary of the open-ended informal consultations of the Commission on Human Rights held pursuant to Economic and Social Council decision 2005/217, prepared by the Chairperson of the sixty-first session

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Introduction

1. Further to Economic and Social Council decision 2005/217 and to decision 2005/116 of the Commission on Human Rights, and pursuant to consultations within the Expanded Bureau, I convened, in my capacity as Chairperson of the sixty-first session of the Commission on Human Rights, open-ended informal consultations on 20 June 2005. The purpose of these consultations was to reflect on the recommendations on human rights contained in the report of the Secretary-General (A/59/2005 and Add.1-3), with a view to contributing to the intergovernmental deliberations on the proposed reforms of the United Nations in the General Assembly.

2. In accordance with the modalities for this consultation, which were discussed within the framework of the Expanded Bureau, all participants in the sessions of the Commission on Human Rights, namely Member States, observer States, United Nations specialized agencies, intergovernmental organizations, national human rights institutions and non-governmental organizations were invited to attend and participate in the informal consultations.

3. At my invitation, the discussion focussed on the report of the Secretary-General (A/59/2005), as well as any other relevant documents, in particular the draft outcome document prepared by the President of the General Assembly, the explanatory note of the Secretary-General on the proposed Human Rights Council (A/59/2005/Add.1), and the Plan of Action of the Office of the High Commissioner for Human Rights (OHCHR) entitled "Protection and empowerment" (A/59/2005/Add.3).

4. I opened the consultations and invited the High Commissioner for Human Rights to make a statement. She referred to the historic achievements of the Commission and emphasized that the current challenge it faced was to build on that history in order to meet the new and unprecedented human rights tests of our age. She also commented on the Secretary-General reform proposals in so far they related to the Commission and on the OHCHR Plan of Action.

5. Subsequently, the discussion was facilitated by H.E. Mr. Mohamed Saleck Ould Mohamed Lemine (Mauritania, Vice-Chairperson) in the morning and by H.E. Mr. Volodymyr Vassylenko (Ukraine, Vice-Chairperson) in the afternoon.

6. As I said at the close of the meeting, the consultations benefited from constructive and meaningful proposals or recommendations, which will be of assistance in the collective endeavour of Governments and the Secretary-General in designing the future of the Commission.

7. The following summary, which I was authorized to prepare under Economic and Social Council decision 2005/217, contains an account of the main issues discussed during the consultation and is made available to the President of the General Assembly, through the President of the Council. Its structure follows the main components of the discussion, namely (a) general comments; (b) role and functions of the proposed new human rights body; (c) status and composition of the proposed new human rights body and related issues; (d) treaty body reform; (e) OHCHR; and (f) remarks by regional groups or other groups of States.

I. General comments

8. It was generally acknowledged that reform of the human rights machinery should be anchored in and undertaken within the framework of the overall process of reform of the United Nations. In that regard, the importance of mainstreaming human rights into United Nations activities and the centrality of human rights within the United Nations system was affirmed by all delegations. Reference was made to the interrelatedness of human rights, development and security, as strongly emphasized in the report of the Secretary-General. Reference was also made to the universality, indivisibility, interdependence and interrelatedness of all human rights as a guiding principle for any reform process.

9. The view was shared among States and non-governmental organizations (NGOs) that it was vitally important to strengthen, improve and reform the existing human rights machinery, particularly with regard to the work of the Commission on Human Rights and its special procedures, the work of the human rights treaty bodies and the work of the OHCHR.

10. Differences in views were expressed, however, with regard to the various recommendations contained in both the report of the Secretary-General and in the draft outcome document.

11. Many statements referred to the declining international credibility of the Commission on Human Rights, and several specific proposals put forward by delegations addressed this issue within the context of the proposed role, functions and structure of the new human rights body. Politicization, selectivity and double standards were commonly acknowledged to be shortcomings of the current Commission.

12. The proposal to elevate the Commission on Human Rights to a standing Human Rights Council was supported by many delegations as a means of concretely reflecting the centrality of human rights issues in the United Nations system. Delegations considered that the establishment of a Council with higher status and increased authority would accord human rights a higher priority or a greater degree of importance than other issues, such as development. It was stated that such a proposal would weaken the comparative importance of other United Nations bodies dealing with issues of similar importance, particularly with regard to developing countries.

13. Several delegations considered that proposals to transform the Commission into a Council merely addressed the form and not the substance of human rights and doubts were expressed as to whether the proposed new human rights body would effectively overcome or avoid the perceived shortcomings of the Commission in its operation. Many statements also referred to the achievements of the Commission, as well as the need to preserve or improve upon its positive features and elements. The view was also expressed that reform of the current Commission could be undertaken without changing its form or composition but by addressing the perceived main root causes of its challenges, including the lack of credibility.

14. Additionally, support was expressed for OHCHR, including in favour of a significant increase in its resources.

II. Role and functions of the proposed new human rights body

A. Existing mechanisms, procedures and arrangements

15. Most delegations were of the opinion that the reform process should retain the best features and achievements of the Commission. Among them, the special procedures were often mentioned as playing a crucial role, which would need to be further strengthened. Many delegations referred to the need to improve their working methods and mandates in order to ensure proper coordination, avoid duplication and overlapping in their work, promote transparency in their activities and clarity in their reporting requirements, and ensure genuine cooperation and dialogue with States. Proposals were also made concerning the importance of ensuring the independence of the mandate holders, respecting transparency in their selection process and ensuring an equitable geographic distribution among them.

16. Some delegations stressed the importance of the existing subsidiary bodies of the Commission, particularly the Sub-Commission and its working groups, and insisted on the need to examine ways of maintaining their vital role and contribution, or establishing similar arrangements. On that point, one delegation considered that the Sub-Commission should be abolished.

17. Another delegation specifically pointed out that in view of the unavoidable transitional period between the Commission and the new human rights body, a moratorium on the creation of new special procedures should be established and consensus reached on a number of additional issues such as the 1503 procedure and the Sub-Commission; in their view the latter should retain its role as a think-tank. Another delegation indicated that the special procedures as well as the intergovernmental working groups and the Sub-Commission should be requested to report to the Human Rights Council, which would then reconsider, redefine or amend their mandates.

B. Possible new mechanisms and arrangements

18. Many delegations concurred that the proposed new human rights body should be in a position to discuss any matter or situation relating to the promotion and protection of human rights. Many other delegations emphasized the need to further elaborate on the proposed mandate, functions and working methods of the new mechanism to avoid overlapping and duplication. Others referred to the importance of ensuring that economic, social and cultural rights as well as the right to development had the same importance and standing as civil and political rights in a new environment that should be defined against the background of the indivisibility and interrelatedness of all human rights.

19. It was considered that in building upon the current working methods and activities of the Commission, the new body should also increase its level of technical assistance and place greater emphasis on national capacity-building and human rights education. Others considered that elevating the Commission to a standing body that would meet regularly throughout the year would significantly increase the capacity of the United Nations in terms of early-warning and prevention.

20. Most delegations referred to the proposed peer-review system which had been referred to by the Secretary-General and was implicit in the draft outcome document. It was felt that such a system would enable the new body to review the situation of all human rights in all countries. Such a system was thus considered by some participants to be a most useful tool in addressing the problems of politicization and selectivity in dealing with

human rights issues. Other delegations considered that the concept and modalities of the proposed peer-review system remained extremely vague and unclear and needed to be thoroughly discussed and clarified before it could be agreed upon and become operational and useful in any new setting. In that regard, several participants indicated that care had to be taken to avoid creating an overly cumbersome system for considering the human rights records of Member States that could compete with the human rights treaty body system and deplete the already limited available financial resources.

21. Some delegations considered that the modus operandi of the proposed peer-review system should be based on interactive dialogues among peers and lead to greater transparency in the consideration of human rights situations at the country level. Some participants indicated that priority should be given to the consideration of the human rights records of the States that would become members of the proposed new body. As far as the reviewing of the human rights situations in countries that would not be members of the future body, it was considered that ways and means should be found to ensure that they were placed on an equal footing with members for that particular purpose. Others elaborated further, proposing that the consideration of human rights situations of all Member States could be based on technical information provided by the treaty bodies, special procedures, as well as the comprehensive global report to be undertaken by OHCHR. Several delegations noted, however, that utmost care should be taken to ensure that the proposed peer-review system should not overlap with the treaty bodies and the special procedures systems. It was also mentioned that this system should not preclude the proposed human rights body from dealing with urgent human rights situations.

C. Organization of work

1. Agenda

22. As far as the agenda of the proposed new human rights body was concerned, reference was made by some delegations to country-specific resolutions which should, in their view, be limited to situations of gross and systematic violations of human rights, in particular situations resulting from foreign occupation and the denial of the rights of peoples to self-determination. Others added that given their particular importance, such resolutions should be adopted by a two thirds majority. On the other hand, other delegations shared the view that in establishing a new human rights body, the utmost care should be taken to preserve its capacity to consider situations of human rights violations at the country level and make appropriate recommendations to Member States. One delegation expressed its concern at having a specific agenda item dealing with human rights issues in one country only. Some delegations suggested that the 1503 confidential procedure could assist in depoliticizing the work of the new human rights body. This proposal aimed at adopting a sequential approach whereby the public consideration of countries by the Commission or the new body would be resorted to only when a situation reflects a pattern of gross and systematic violations of human rights, reserving the consideration of other situations for the confidential procedure.

2. Participation of NGOs and national institutions in the work of the new human rights body

23. The constructive participation by NGOs in the work of the Commission was considered by many to be one of its most valuable features and which should be retained. A few delegates mentioned that the provision of some financial assistance might be useful for facilitating the participation of NGOs from developing countries. Various participants reiterated the importance of guaranteeing equal or increased access of NGOs to the

proposed new body, while others referred to some shortcomings which should be addressed, particularly in terms of the politicization of some NGO participants. The issue of accreditation of NGO participants to the future body as well as the general framework of NGO participation was also considered by a few delegates as deserving particular attention.

24. The usefulness of the involvement of national institutions for the promotion and protection of human rights in the work of the Commission and the proposed new body was also emphasized by some participants.

III. Status and composition of the proposed new human rights body and related issues

A. Status of the proposed new human rights body

1. A standing body

25. The proposal to establish a Human Rights Council as a standing body that could meet throughout the year was welcomed by many delegations as a means of increasing effectiveness in addressing human rights issues at any point in time during the year. It was also considered to provide the Council with a better capacity to deal with an imminent human rights crisis in any given country, thus increasing its ability in terms of early warning and prevention of human rights violations. On the other hand, while stressing the added value of having a permanent body, other delegations expressed some reservations and suggested that the Council should rather meet once a year with the possibility of holding special sessions when required, as was presently the case with the Commission. The view was expressed that such ad hoc sessions could be convened to deal with serious human rights violations or situations involving non-compliance with international law that required urgent attention.

26. Some scepticism regarding the added value of establishing a standing body was, however, expressed as the Commission already had the possibility to convene special sessions to deal with emergency situations. Some delegations mentioned that the standing character of the proposed new body might in itself stimulate or reinforce politicization or selectivity.

2. A principal or a subsidiary body

27. The possibility of elevating the Commission to a principal organ elicited several comments or questions. Some participants underscored that such a reform would, by definition, require amending the Charter, which, it was stressed, was a long and difficult process. It was also mentioned that upgrading the Council into a Charter body might dilute the importance of other bodies dealing with issues of similar or greater importance, in particular for developing countries. On the other hand, several participants considered that establishing the Council as a principal organ would be a key factor in upholding the centrality of human rights within the United Nations system.

28. In line with remarks by related groups of States, many participants pronounced themselves in favour of elevating the Commission to a subsidiary body of the General Assembly, as that option would help in strengthening and restoring the General Assembly as the chief deliberative, policy-making and participatory organ of the United Nations. Other delegations had reached the same conclusion based on different arguments, including the possibility of elevating the Commission to a subsidiary body as an interim arrangement pending its establishment as a principal organ under the Charter. In that event, the

experience gained by the new human rights body as a subsidiary body of the General Assembly would be helpful at a later stage in defining the new body as a principal organ of the United Nations.

B. Composition

29. Most participants addressing the issue of the membership of a new human rights body recommended that its size be similar to, if not bigger than that of the current Commission. For some of them, a smaller membership would run contrary to the current trend towards increasing the membership of other United Nations bodies, such as the Security Council, and the perceived need to democratize its organs and activities. Other participants added that the end result of reducing the membership of the Council compared with that of the Commission would result in a lack of transparency, a higher level of politicization and a further marginalization of developing countries. On the other hand, the view was expressed that the membership of the new human rights body should be reduced.

30. The possible enlargement, or universalization, of the membership of the Council was also envisaged by some participants. On the one hand, it was considered by some that this would affect the efficiency and effectiveness of the new body in responding quickly to human rights situations. On the other hand, a larger membership could be a means of enhancing the participatory character of the Council.

31. The issue of an equitable geographic distribution among the members of the new human rights body was referred to as an essential element of the features of the new body that would enhance its legitimacy. In that regard, specific suggestions were made regarding the distribution of seats between regional groups. Other comments were also made on the need to establish a rotation among the members and thus limit the number of consecutive mandates of any given member to a maximum of two.

32. Many delegations strongly considered that membership in the Council should not be subject to any criteria or preconditions, while others proposed that candidates for membership in the Council should be in compliance with their international human rights obligations. Others considered that the members of the new human rights body should be the first ones to be examined under the peer-review system.

33. Rather than criteria, several participants stressed that candidates for membership in the Council should undertake to abide by the highest human rights standards and/or make voluntary pledges demonstrating their commitment to improving human rights standards both at the national and international levels. Such pledges could include willingness to cooperate with the United Nations human rights system, in particular by extending standing invitations to special procedures.

C. Election by the General Assembly

34. In line with group statements, many participants supported the idea that the members of the Council should be elected by a simple majority of the General Assembly in order to facilitate participation by all countries. In that regard, it was stressed that electing the members by a two-thirds majority of the Assembly, as recommended in the draft outcome document, was not in line with current United Nations practice and would be detrimental to developing countries due to obvious constraints in their ability to undertake lobbying efforts compared with developed countries. On the other hand, other delegations expressed their preference for the election of the members of the new body by a two-thirds majority of the General Assembly.

D. Location

35. Participants who raised this particular issue underlined that the proposed new body should meet at a location where close coordination with the Office of the High Commissioner for Human Rights would be possible. In this regard, most of them expressed the preference for the new body to be based in Geneva, and indicated that this would be extremely convenient as relevant international organizations and non-governmental organizations were also located in that city. It was nevertheless pointed out by a few participants that this should not exclude or prevent the convening of special or specific sessions of the proposed new body in New York.

E. Link with other United Nations bodies (Security Council, Economic and Social Council and Third Committee)

36. In line with remarks by groups of States, many participants indicated that the nature of the relationship between the Security Council and the proposed new body should be carefully examined. Strong differences emerged in this regard. In particular, while some considered that the work of the proposed new body should not in any respect be linked to the Security Council, others insisted that it should be able to make specific recommendations to the Council.

37. Many delegates envisaged the implications that the creation of a new human rights body would have on the work of the Economic and Social Council and the Third Committee of the General Assembly, and commented on the possible duplication of their work and the need to maximize their respective outputs. In particular, they stressed the crucial importance of carefully studying any revision of the mandate of the Third Committee, as well as its agenda in dealing with human rights issues, if the proposed new human rights body were to become a subsidiary body of the General Assembly.

F. Interim arrangements and time frame for the entry into force of the reform

38. Many participants underlined the importance of having a thorough discussion on the mandates and modalities of the proposed new body prior to its creation, and agreed that hasty decisions should be avoided. Several participants referred to the importance of making practical and detailed arrangements to ensure a smooth transition from the Commission on Human Rights to the proposed new body. On the other hand, other participants referred to the draft outcome document prepared by the President of the General Assembly and highlighted that the decision to elevate the Commission to a Council should be taken as a matter of principle at the September Summit, leaving to the General Assembly the responsibility to look into the modus operandi of that body at its sixtieth session.

IV. Treaty body reform

39. Standard-setting was considered to be one of the most notable achievements of the Commission. In this context, reference was made to the work of treaty monitoring bodies and to the changes contemplated in the report of the Secretary-General and the OHCHR Plan of Action. In particular, attempts by treaty bodies at harmonizing reporting guidelines were well received and the coordination efforts aimed at better implementation of concluding observations welcomed. It was also mentioned that technical cooperation

provided to developing countries should be strengthened to assist them in the preparation of their reports and that a gender balance and geographic distribution should be taken into account in a more prominent manner in electing members of treaty bodies.

40. More generally, the proposed unified treaty body system that was envisaged in both documents was considered to be appropriate in order to help Member States in coping with their reporting obligations. Additionally, the possible existence of a unified system was mentioned as a way of rationalizing the working methods of the existing treaty bodies. The suggestion to hold an intergovernmental conference in 2006 to consider a unified and standing mechanism was mentioned by several participants as being a helpful and appropriate step.

V. OHCHR

41. Participants expressed strong support for OHCHR, including the need to increase its financial resources. Comments were also made regarding the composition of the Office and the need to ensure a much better geographical balance.

42. Many participants commended the issuing of the Plan of Action of the Office and expressed the wish to study it further. The fact that this document considered civil, political, economic, social and cultural rights, together with the right to development and poverty reduction strategies, on an equal footing was noted.

43. The references to field presences and country engagement in the Plan of Action attracted specific remarks, and some comments were made regarding the perceived need to entrust the General Assembly with the task of overseeing such development. Some participants welcomed the proposal contained in the Plan of Action concerning the annual publication by OHCHR of a thematic Global Human Rights Report, while others recommended that such a report should have a comprehensive geographical scope.

44. As far as the financial implications of the Plan of Action were concerned, it was strongly emphasized that the share of the regular budget of the United Nations allocated to OHCHR should be significantly increased to enable the resources and activities of the Office to be more predictable and transparent and, according to some participants, less donor-driven. Some delegations supported the related statements by groups of States and warned that the increase in regular budget funding for OHCHR should under no circumstances be at the expense of United Nations programmes and activities already in place, in particular those benefiting developing countries. Comments were also made regarding the need for some intergovernmental scrutiny, possibly by the new human rights body, of the OHCHR budget and programmes.

45. As far as the mandate of the High Commissioner was concerned, the possibility for the High Commissioner to be more involved in the activities of the Security Council and of the future Peacebuilding Commission was mentioned, while others pointed to the fact that election of the High Commissioner by a two-thirds majority of the members of the General Assembly should be envisioned in order to strengthen her position.

VI. Remarks by regional groups or other groups of States

46. Some groups of States made formal statements, which are reflected below. Other groups refrained from taking a joint position in view, inter alia, of the interactive nature of the consultations.

A. African Group

47. The African Group underscored that the proposed reform of the United Nations should be pursued in a holistic, comprehensive, effective, transparent and inclusive manner. While expressing concern that a Commission decision to contribute to the intergovernmental deliberations on the proposed reform of the United Nations (2005/116, entitled "Proposed reform of the Secretary-General in the area of human rights") had been superseded by the adoption of Economic and Social Council decision 2005/217, the African Group nevertheless outlined its views on the human rights recommendations contained in the report of the Secretary-General and in the draft outcome document of the President of the General Assembly.

48. The proposed strengthening of the Office of the High Commissioner for Human Rights through increased resources from the regular budget was generally supported, but not at the expense of resources allocated to other United Nations programmes and activities that were of importance to developing countries. While acknowledging the importance of voluntary contributions to OHCHR, the Group stressed that such contributions should not be earmarked for specific programmes and activities. With regard to the Office's mandate, the African Group emphasized that priority should be given to those aspects that were crucial for the promotion and protection of human rights, in particular advisory services, technical cooperation and financial assistance. In its view, the emphasis given to field operations was not within the Office's original mandate, and the establishment of field presences or new centres required the approval of the General Assembly in compliance with its resolution 48/141.

49. In light of the projected strengthening and expansion of the Office's mandate, the need for periodic monitoring of its activities by an intergovernmental body, in furtherance of the principles of accountability and transparency, was highlighted. In this regard, the Group recommended that the supervisory intergovernmental body should be located in the same city as OHCHR so as to enhance their mutual interaction and effectiveness. It also recommended that the Office's annual programme of action, budget and report should be reviewed and that the recommendations of the supervisory body should be attached to the annual documents transmitted to the General Assembly. Further, the Group recommended that the High Commissioner should be nominated by the Secretary-General and appointed by a two-thirds majority of the Assembly, taking geographical rotation into account in filling the post.

50. The African Group supported measures to enhance the effectiveness of the human rights treaty bodies, such as improved reporting procedures and the harmonization of guidelines. The need to address the difficulties of developing countries in meeting their reporting obligations was emphasized, in particular by enhancing technical and financial assistance. The need for treaty body membership to take into account equitable geographic representation, a gender balance, professional competence and independence was also emphasized.

51. While noting that no clarification had been provided as to how a proposed new human rights body would address the current shortcomings of the Commission on Human Rights, particularly with regard to its politicization and selectivity, the African Group was not opposed to transforming the Commission into a subsidiary body of the General Assembly, to be based in Geneva. Time was required to examine all the features of the proposed body and its possible relationships with other United Nations organs. The Group did not, however, support the elevation of the body to the status of a principal organ of the United Nations in the future.

52. With regard to its structure, the Group asserted that the membership should be elected by a simple majority of the General Assembly, that its composition should be based on equitable geographic representation and that its size should not be less than that of the Commission. With regard to its mandate, the Group asserted that the universality, indivisibility, interdependence and interrelatedness of all human rights should be considered as a guiding principle of the new body. The Group also proposed that recommendations made by the body on human rights matters or situations should be addressed only to the General Assembly. The need for in-depth discussions on the proposed peer-review mechanism was highlighted.

53. The African Group stressed the importance of preserving the strengths of the Commission, particularly with regard to the special procedures and the participation of NGOs in similar arrangements to those made by the Economic and Social Council in accordance with Article 71 of the Charter. Positive aspects of the Commission's mode of operation should be retained when formulating and adopting the rules of procedure, working methods and modalities of determining the composition of the proposed Council. Further, all efforts to achieve reforms in the area of human rights should be designed so as to tackle possible politicization, selectivity and double standards in the new body.

B. Arab Group

54. The Arab Group stressed the importance of promoting and strengthening respect for human rights at the national and international levels on the basis of the indivisibility of all human rights. The intrinsic relationship between human rights and developmental issues was also affirmed. Accordingly, the importance of undertaking human rights reform within the context of general United Nations reform was underlined.

55. In its view, reform should focus on the substance and not the form of human rights in order to remedy the shortcomings of the Commission on Human Rights, particularly with regard to the politicization and selectivity in its work; the excessive emphasis placed on civil and political rights to the detriment of economic, social and cultural rights; the duplication and overlap in the functioning of the special procedures; as well as the lack of transparency in the appointment of mandate-holders. As discussions on reform have not adequately delved into the substance of the proposed new body, in particular its procedural and practical details, a final position on any reform proposal could not be determined until after all the related aspects and implications were fully understood.

56. Nevertheless, the Arab Group emphasized that membership of the proposed new human rights body should be similar to or bigger than that of the Commission and that no criteria or conditions for membership, other than those stipulated in the Charter, should be imposed. The Group proposed the election of members by a simple majority of the General Assembly on the basis of equality among States and equitable geographic distribution.

57. The Arab Group asserted that the new human rights body should be a subsidiary organ of the General Assembly and that it should not submit reports and recommendations to other United Nations organs. The work of the new body should not be linked to the Security Council and it should retain the right to convene special sessions with the approval of a majority of its members, in a manner similar to the current procedure in the Commission on Human Rights. Transforming the Council into a principal organ of the United Nations was viewed as according a higher degree of importance to human rights issues with respect to developmental issues and as being inconsistent with the need to strengthen the role of the Assembly. The mandate and functions of the proposed new body should be based on the principle of the indivisibility of human rights, and its agenda should reflect the concerns of developing countries. The need to continue the examination of the

human rights situation in Palestine and the occupied Arab territories was also stressed. The Arab Group noted that further study was needed with regard to the concept of peer review and highlighted the potential difficulty in applying the concept in an objective, impartial and non-politicized manner.

58. The Arab Group expressed support for current endeavours to coordinate the work of the human rights treaty bodies and to regulate the reporting process. Emphasis was placed on the provision of technical assistance by OHCHR to enhance the reporting capacity of developing countries and the implementation of treaty body recommendations. Support was also expressed for the work of the special procedures, in particular through the introduction of modifications to their working methods and assignments so as to ensure proper coordination. The need for transparency and consultation with regional groups with regard to the appointment of mandate-holders was underlined. Further, the importance of examining ways to maintain the vital role of the Sub-Commission in the development of human rights was emphasized, along with the need to regulate the participation of non-governmental and civil society organizations so as to minimize any potentially negative aspects.

59. The need to strengthen the role of OHCHR, to increase the resources allocated to it from the regular budget and to reduce its dependence on voluntary contribution was emphasized. It was stressed, however, that such an increase should not impact the budgetary allocations to other bodies engaged in activities of primary concern to developing countries. Additionally, priority should be given to technical assistance activities, national capacity-building, training programmes and human rights education. The need for equitable geographical distribution with regard to staff appointments was highlighted and the appointment of the High Commissioner on the basis of nomination by the Secretary-Gereral and approval of a two-thirds majority of the General Assembly was proposed.

60. In view of the proposed strengthening of OHCHR, the need for periodic monitoring and control of its activities was underlined. In that regard, the Arab Group asserted that the proposed new human rights body should be empowered to perform such monitoring and control functions by, inter alia, assessing the Office's programme of work, annual budget and annual report, on the understanding that its recommendations would be attached to those documents when submitted to the General Assembly. The Group also asserted that the proposed new human rights body should be situated in the same city as OHCHR so as to enhance their effectiveness and interaction.

C. European Union and acceding and associated countries

61. The European Union (EU), joined by acceding and associated countries, welcomed the attention paid to human rights in the report of the Secretary-General and highlighted the need for all discussions on reform to reflect the interdependence of human rights with development and security. It emphasized that the final declaration by the High-level Plenary Meeting of the General Assembly should reflect the core role of human rights and the importance of mainstreaming human rights within United Nations activities.

62. EU supported the strengthening of OHCHR and called for an increase in its funding from the regular budget. It also supported the strengthening of the High Commissioner's role, particularly in interactions with other United Nations bodies, such as the Security Council and the proposed Peacebuilding Commission.

63. EU held that institutional reform in the human rights field would strengthen the United Nations human rights system as whole. It therefore supported the elevation of the

Commission on Human Rights to a standing Human Rights Council, based in Geneva, as a principal and autonomous Charter body of the United Nations. Pending any decision to be undertaken by the General Assembly in that regard, it proposed that the Council should first be established as a subsidiary body of the Assembly, thus creating a link with a universal body. Overlap with the work of the Third Committee should be avoided.

64. EU emphasized that the mandate of the future Council should enable it to address urgent human rights situations with greater effectiveness, maintain and strengthen the achievements of the Commission on Human Rights, and strengthen the mainstreaming of human rights within United Nations activities. Its mandate should not, however, encroach upon the work of the human rights treaty bodies. The membership of the future Council should ensure the legitimacy and relevance of its work. In this regard, EU held the view that the membership should be elected by a two-thirds majority of the General Assembly on the basis of fair geographical balance. EU also proposed that candidate States to the Council should commit themselves to upholding the highest human rights standards.

65. It was emphasized that non-member States should continue to enjoy observer status. Consultations with and the full participation by NGOs and national human rights institutions should be retained. More specifically, the system of NGO accreditation should be revised in line with the recommendations of the Panel of Eminent Persons on United Nations-Civil Society Relations (the "Cardoso report") (A/58/817). The special procedures system should also be retained. While prepared to consider the proposed peer-review mechanism, EU emphasized that such a mechanism should not be utilized as a means of avoiding or opposing the consideration of urgent and acute human rights situations.

66. Finally, EU noted that while some key issues were neither mentioned nor clarified in the draft outcome document of the President of the General Assembly, it could support the approval in principle of the proposed Council. Other arrangements and details would be left for the Assembly to develop at its sixtieth session.

67. During the discussion, other delegations aligned themselves with the EU position.

D. Organization of the Islamic Conference

68. The Organization of the Islamic Conference (OIC) stressed that politicization, selectivity and double standards hampered the effectiveness of the United Nations human rights machinery; it therefore supported its reform. It emphasized that the proposed new human rights body should not be linked to the Security Council and should not resort to punitive or coercive measures or sanctions. The membership of the proposed new body should not be smaller than the current membership of the Commission and should be based on equitable geographic representation. Election by simple majority of the General Assembly was highlighted as a means of facilitating the participation of smaller countries. The new body should be able to meet in regular and special sessions to deal with serious human rights violations and situations involving non-compliance with international humanitarian law. Its mandate should be to oversee the implementation of international human rights and international humanitarian law, including the right to development; standard-setting when required; as well as capacity-building and technical cooperation.

69. The issue of politicization was of primary concern to OIC. Country-specific resolutions under item 9 of the current Commission's agenda was cited as the root cause and most evident manifestation of politicization. A number of measures to address such politicization were therefore proposed, including the utilization of a thematic approach as opposed to a country-specific approach in the consideration of human rights issues; the limiting of country-specific resolutions under item 9 to situations of gross and systematic

violations of human rights; and the approval of decisions on country-specific situations by a two-thirds majority of the members. The importance of cooperation, technical assistance, education and capacity-building was stressed. The importance of ensuring equal attention and consideration of economic, social and cultural rights in relation to civil and political rights was also stressed.

70. Situations of foreign occupation and the denial of the right of peoples to self-determination were considered grave violations of human rights and not country-specific. In the view of OIC, such violations should therefore be a focus of the new human rights body. The consideration of resolutions on the human rights situation in Palestine and the occupied Arab territories under a special item of the agenda should also continue.

71. In view of the projected strengthening and expansion of the mandate of OHCHR, the need for periodic monitoring of its activities by an intergovernmental body in furtherance of the principles of accountability and transparency was highlighted. In this regard, the Group recommended that the supervisory intergovernmental body be located in the same city as OHCHR so as to enhance their mutual interaction and effectiveness. It also recommended that the Office's annual programme of action, budget and report should be reviewed and that the recommendations of the supervisory body be attached to the annual documents transmitted to the General Assembly.

72. Additional recommendations to improve the Office's effectiveness and accountability included the need to increase its regular budget allocation based on a plan of action approved in an intergovernmental context; the need for unearmarked voluntary contributions; and the importance of equitable geographical distribution and cultural diversity in its staff. OIC asserted that the High Commission should have a promotional and not a monitoring role through providing technical cooperation and advisory services. The High Commissioner should report to the General Assembly through its Third Committee and should only report to the Security Council in cases of breaches of international peace and security at the Council's request.

73. The important contribution of NGOs to the work of the Commission and the positive and active role played by national human rights institutions, in particular those based on the Paris Principles, were highlighted. The need for reform with regard to NGO speaking time, ensuring adherence to Economic and Social Council resolution 1996/31 and developing financial mechanisms to support the participation of NGOs from developing countries were also highlighted.